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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

PORTKA, GARY J

ART UNIT

PAPER NUMBER

2188

DATE MAILED: 06/21/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/816,840

Applicant(s)

AASLAND, CHRISTIAN

Examiner

Gary J Portka

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicant's submission filed on April 22, 2004 has been entered.

2. Claims 1, 2, 10-12, 16, and 17 have been amended by Applicant. Claims 1-25 are pending.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Nemes, U.S. Patent 5,893,120.

5. As to claims 1, 11, and 16, Nemes discloses a method and apparatus (Fig. 1, 3, and 4) including creating an active window table (hash table, including the linked list chains, see col. 5 lines 15-57), identifying media blocks (records) in the table that have expired (38, Fig. 3), determining if any identified block is the oldest in the set (52, Fig. 4), removing identified blocks from the table (42, Fig. 3,

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55, Fig. 4), updating the table to indicate a new oldest media block (54, Fig. 4).

See also Abstract, and col. 6 line 5-34. The added limitations that the active window table contains a list of media blocks, expiration information, and oldest block identification is also disclosed. Although the active window table was interpreted as the hash table plus the linked lists, the hash table might even be properly said to include the linked lists (see col. 5 lines 18-21, "... each hash table entry stores all the records that collided at that location by storing ... a pointer to the head of a linked list of those same records."), which themselves contain the records (see col. 4 lines 58-67, "... a hash table is a large, one-dimensional array ... Such a table of records ..."), which contain expiration information (see col. 6 lines 5-9). The oldest indication clearly is met by being able to identify the first item in the list (col. 6 lines 28-31); alternatively it may be argued that one of the described record's expiration information indicates which block is the oldest by simple inspection.

6. As to claims 2, 12, and 17, identified blocks are added to a pool for reuse (see col. 6 lines 35-39).

7. As to claims 3 and 18, the procedure of Nemes may be considered a data backup program as recited (see col. 4 lines 45-48).

8. As to claims 4, 13, and 19, the steps are repeated as recited.

9. As to claims 5 and 20, the expiration date as recited is disclosed (see col. 6 lines 5-11).

10. As to claims 6, 14, and 21, at least media block, reference block, and expiration date identifiers must be available in the table.

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11. As to claims 7, 15, and 22, since the linked list is updated to point to the proper next block in the sequence, the limitation of media block sequence identifier is met.

12. As to claims 8, 9, 23, and 24, any new data stored into a media block may be considered an additional block stored into a most recent media block.

13. As to claims 10 and 25, any amount of data requiring more records for storage retrieves them from the pool as recited (see col. 6 lines 39-45).

Response to Arguments

14. Applicant's arguments filed April 22, 2004 have been fully considered but they are not persuasive. Applicant argues that in Nemes neither the hash table nor the linked lists contain information regarding expiration of data blocks stored in media blocks. Examiner disagrees as described hereinabove; the expiration information is stored with each record and thus with the recited media block, which information regards any data blocks in the media block. Applicants arguments imply that the data blocks are not part of the linked lists nor the hash table, as stated hereinabove the linked lists include the data blocks and are properly considered to make up each hash table entry.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary J Portka whose telephone number is (703) 305-4033. The examiner can normally be reached on M-F 9:30 AM - 6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mano Padmanabhan can be reached on (703) 306-2903. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 305-3900.



Gary J Portka
Primary Examiner
Art Unit 2188

June 18, 2004